



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150-AJ22

NRC-2012-0308

List of Approved Spent Fuel Storage Casks: MAGNASTOR® System

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; withdrawal.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is withdrawing a direct final rule that would have revised its spent fuel storage regulations to include Amendment No. 3 to Certificate of Compliance (CoC) No. 1031, NAC International, Inc. (NAC) Modular Advanced Generation Nuclear All-purpose Storage (MAGNASTOR®) System listing within the “List of Approved Spent Fuel Storage Casks.” The NRC is taking this action because it has received a significant adverse comment for the vendor of MAGNASTOR® in response to a companion proposed rule which was concurrently published with the direct final rule.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], the NRC withdraws the direct final rule published at 78 FR 16601 on March 18, 2013.

ADDRESSES: Please refer to Docket ID **NRC-2012-0308** when contacting the NRC about the availability of information for this action. You may access information related to this action, which the NRC possesses and is publicly available, by any of the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2012-0308**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-492-3668; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this final rule.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may access publicly available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Naiem S. Tanious, Office of Federal and State Materials and Environmental Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: 301-415-6103, e-mail: Naiem.Tanious@nrc.gov.

SUPPLEMENTARY INFORMATION: On March 18, 2013 (78 FR 16601), the NRC published in the *Federal Register* a direct final rule amending its regulations in part 72 of Title 10 of the *Code of Federal Regulations* (10 CFR) to include Amendment No. 3 to CoC No. 1031,

MAGNASTOR® System listing within the “List of Approved Spent Fuel Storage Casks.” The direct final rule was to become effective on June 3, 2013. The NRC also concurrently published a companion proposed rule on March 18, 2013 (78 FR 16619).

In the March 18, 2013, proposed rule, the NRC stated that if any significant adverse comments were received, a document that withdraws the direct final rule would be published in the *Federal Register*. As a result, the direct final rule would not take effect.

The NRC received a significant adverse comment on the proposed rule that accompanied the direct final rule; therefore, the NRC is withdrawing the direct final rule. The comment was submitted by NAC International on April 17, 2013 (available at www.regulations.gov by searching on Docket ID NRC-2012-0308). NAC International’s comment identified several corrections to the information used by the NRC to develop the proposed Technical Specifications. Specifically, the comment identified revisions to Table B2-4, Bounding PWR [Pressurized Water Reactor] Fuel Assembly Loading Criteria – Enrichment/Soluble Boron Limits, in Appendix B, Approved Contents for the MAGNASTOR® System, of the CoC. This table provides bounding pressurized water reactor fuel assembly loading criteria, in terms of enrichment limits. The comment also identified a typographical error in Table B2-4 which must be corrected in a revision to that table. The NRC considers these revisions to be a significant adverse comment as defined in Section I, Procedural Background, of the direct final rule, because these revisions require a change (other than editorial) to the Technical Specifications.

As stated in the March 18, 2013, proposed rule, the NRC will address the comment in a subsequent final rule. The NRC will not initiate a second comment period on this action.

Dated at Rockville, Maryland, this 16th day of May, 2013.

For the Nuclear Regulatory Commission.

R. W. Borchardt,
Executive Director for Operations.

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